IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 723 of 2004

Between:

K. Lakshmannna @ Lakshmaiah, S/o. Subba Rayudu, aged 45 years,
R/o. Kakalapalli Village, Ananthapur Mandal, Ananthapur District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Ananthapur, Ananthapur District.
2 The District Collector, Ananthapur, Ananthapur District.
3 Kondapally Madanna S/o Obulesu,
Vajpayee Nagar, Kakkalapally, Ananthapur District
4 T. Ramalingaiah S/o. Pothanna
Kakkalapally, Ananthapur District
5 M. Kulayappa S/o. Naganna
H.No. 365/D, Kakkalapally, Ananthapur District.
RRs 3 to 5 impleaded as per court order dt. 20-9-2004 in WPMP 4003 of 2004
6 Y. Rajeswari W/o. M. Bhaskar Reddy
D.No. 6/659, Venkatrao Nagar, Ananthapur R 6 is impleaded as per court order dt. 20-9-2004 in
WPMP 18376 of 2004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing proceedings in R.C.NO.1517/2003/B, dated 14-12-2003 as illegal, Arbitrary and violative of Articles 14 and 21 of the Constitution of India and also being violative of express provisions enunciated under Act 10/2002 and consequently direct the 1st respondent not to

interfere with the possession and enjoyment of the borewell, belonging to the petitioner, which he has dug in Sy.No.225/2 in Kukkalapalli Village, Ananthapur Mandal and District.

Counsel for the Petitioner: MR.KUNCHEAM MAHESWARA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent Nos.3 to 5: MR. P. VEERA REDDY

Counsel for the Respondent No.6: MR.E.MADAN MOHAN RAO

The Court made the following:

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ORDER:

The petitioner is a resident of Kakkalapalli Village in Ananthapur Mandal of Ananthapur District. He is aggrieved by the Proceedings dated 14.12.2003 of the first respondent whereby and whereunder the petitioner was directed to close the bore well sunk by him in Survey No.225-2A3 of the said village. It is the case of the petitioner that he is the owner of agricultural land raising corn crop. He claims that he also purchased Ac.1.00, which is a Government land where he dug a bore well. He is carrying water through a pipeline from the bore well. On a complaint made by some of the villagers, the Mandal Revenue Officer, Ananthapur, the first respondent herein, issued the impugned proceedings. The Respondents-3 to 5 and Respondent No.6, who are subsequently impleaded filed counter affidavits alleging that the petitioner sunk the bore well in the Government land without any permission, and therefore, the order is justified.

Though the Interlocutory applications being WVMP Nos.2837 and 2838 of 2004 are listed, the writ petition itself has been finally heard and is being disposed of at the Interlocutory stage, with the consent of the learned Counsel for the petitioner, learned Assistant Government Pleader and learned Counsel for Respondents-3 to 5 and learned Counsel for Respondent-6.

A reading of the impugned order would show that the Panchayat Secretary, Kakkalapalli village issued a notice to the petitioner and also submitted a report to the first respondent. No notice, however, was issued by the Mandal Revenue Officer to the petitioner under Sections 15 (1) or 15 (2) of the A.P. Water, Land and Trees Act, 2002 (the Act, for brevity). If any person sinks a bore well in contravention of the provisions of the Act, it is always open to the Authority under the Act as well as A.P. Water, Land and Trees Rules, 2002 (the Rules, for brevity) to issue a notice and order for closure of the same. As no notice was issued prior to passing the order, the same is unsustainable, and therefore, the impugned order is set aside and the matter is remitted to the first respondent to pass appropriate orders after hearing the parties. The petitioner and the contesting respondents shall appear before the Mandal Revenue Officer, Ananthapur, on 12.10.2004. The Mandal Revenue Officer shall pass orders within a period of one week from that date.

The writ petition, with the above observations, is disposed of.

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October 4, 2004. **V.V.S. RAO, J**

Note:

Issue C.C. by

06.10.2004.

(B/o)

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To

1. The Mandal Revenue Officer, Ananthapur,

Ananthapur District.

2. The District Collector, Ananthapur,

Ananthapur District.

3. Two CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad (O.U.T)

4. Two C.D. Copies.